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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT CALIFORNIA OF SAN FRANCISCO DIVISION**

In re:
PG&E CORPORATION
-and-
PACIFIC GAS AND ELECTRIC
COMPANY,
☐ Affects PG&E Corporation
☐ Affects Pacific Gas and Electric Company
☒ Affects both Debtors

Case No.: 19-30088 (DM)

Chapter 11
(lead case)
(jointly administered)

**MOTION TO ALLOW/DEEM
TIMELY LATE FILING OF
PROOF OF CLAIM BY LISA
RACZYNSKI AND VINCENT
RACYZNSKI, MEMORANDUM
OF POINTS AND AUTHORITIES;
DECLARATION OF REGINA
BAGDASARIAN IN SUPPORT**

Date: TBD
Time: TBD
Place: United States Bankruptcy Court
Courtroom 16, 17th Floor
San Francisco, CA 94102

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1 TO THE HONORABLE DENNIS MONTALI, UNITED STATES BANKRUPTCY COURT
2 JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL INTERESTED
3 PARTIES:

4 Frantz Law Group, APLC represents thousands of victims of the Fires started by PG&E
5 in 2017 (generally referred to as the “North Bay Fires”), 2018 (“Camp Fire”) and 2019
6 (“Kincade Fire”). Frantz Law Group, APLC respectfully files this motion on behalf of Lisa
7 Raczynski and Vincent Raczynski (“Movants”) to deem timely late filing of proofs of claims
8 (“Motion”).

9 **I. SUMMARY OF ARGUMENT**

10 A proof of claim may be deemed timely upon a showing of excusable neglect and lack of
11 prejudice. In this case, due to a variety of stressors arising from the Camp Fire, the impact of the
12 Dixie Fire, as well as a misunderstanding as to the legitimacy of their claims, Movants were
13 unable to timely file their proof of claim. Because there is no danger of prejudice to the Debtors
14 as Debtors’ estates are solvent, and all creditors stand to be paid, the Motion should be granted to
15 allow these survivors to have their claim deemed timely. This Court must determine whether to
16 grant the Motion.

17 **II. FACTUAL BACKGROUND**

18 Movants are Camp Fire Survivors. Movants were consistently told they did not have a
19 claim because their house did not burn down completely. Being that this was Movant’s first
20 experience retaining an attorney or filing a claim, they simply took the advice of different
21 attorneys, although it was false. After the Movant were told they did not have a claim, they
22 decided to try to pick up the pieces and try to get their life back to what it used to be on their
23 own, without filing a claim. However, unfortunately, Movants realized it is difficult to do so.

24 Movants were misinformed about the law and were so preoccupied with starting over
25 after the fire that they put off thinking about the fire until they sought legal advice from Frantz
26 Law Group. Accordingly, FLG filed a claim on behalf of Movants. A true and correct copy of the
27 Subject Proof of Claim is attached to the Declaration as Exhibit “1.”
28

III. LEGAL ARGUMENT

In Chapter 11 proceedings, bankruptcy courts have broad discretion to accept late filings, including proofs of claim, where tardiness is the consequence of “excusable neglect.” Fed. R. Bank. Pro. 9006(b)(1). This standard is “flexible,” and permits the Court to allow “late filings caused by inadvertence, mistake, or carelessness, as well as by intervening circumstances beyond the party’s control.” *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd. P’ship*, 507 U.S. 380, 389 (1993). Where the party’s delay is caused by overwhelming personal distress, a late filing may be allowed on grounds of excusable neglect. See e.g., *In re Nw. Territorial Mint, LLC*, No. AP 16 1217-CMA, 2018 WL 6187762, at *5 (B.A.P. 9th Cir. Nov. 27, 2018) (“Excusable neglect can include sudden death, disability or illness of counsel, a close family member of counsel, or . . . the party.”); *In re Schultz*, 254 B.R. 149, 154 (B.A.P. 6th Cir. 2000) (same); *TCI Group Life Ins. Plan v. Knoebber*, 244 F.3d 691, 699 (9th Cir. 2001) (excusable neglect where party was experiencing extreme personal difficulties and was “distraught”) (overruled on other grounds); *Comm. for Idaho's High Desert, Inc. v. Yost*, 92 F.3d 814, 824 (9th Cir. 1996) (holding that “compelling circumstances” in one’s personal life may constitute excusable neglect).

The test for excusable neglect is “at bottom an equitable [inquiry].” *Pioneer Inv. Servs. Co.*, 507 U.S. at 395. Courts in the Ninth Circuit generally examine four (4) factors in their analysis: (i) the danger of prejudice to the non-movant, (ii) the length of delay and its potential impact on the judicial proceedings, (iii) the reason for the delay, and (iv) whether the movant acted in good faith. See *id.* Each of these four factors weighs heavily in favor of Movants. Accordingly, their late proof of claims should be deemed timely.

In our present case, there will be no prejudice to PG&E by the Movant’s claim. The value of the Movants claims is marginal relative to the Debtors’ estates and the allowance of those claims will not disrupt the reorganization or distribution process. Debtors’ estates are solvent, and all creditors stand to be paid. See, e.g., *In re Best Payphones, Inc.*, 523 B.R. 54, 75-6 (Bankr. S.D.N.Y. 2015) and *In re Sheehan Mem’l Hosp.*, 507 B.R. 802, 803 (Bankr. W.D.N.Y. 2014)

1 (where the chapter 11 estate is solvent, “the proper remedy for a late filing is not the
2 expungement of a claim, but its allowance as a tardily filed claim only.).

3 Second, despite the late filing, the Movant’s claim will have essentially zero impact on
4 the judicial proceedings and will not change PG&E’s reorganization process. There are tens of
5 thousands of similarly situated claimants as the Movant, whose claims will be placed among
6 them, resulting in no noticeable impact upon the distribution process. See e.g., *In re Dix*, 95 B.R.
7 134, 138 (B.A.P. 9th Cir. 1988) (allowing proof of claim filed two-years late because “there is
8 no indication [of] a negative impact on efficient court administration”); *In re Earth Rock, Inc.*,
9 153 B.R. at 63 (finding excusable neglect where eight-month delay would not impact
10 reorganization proceedings).

11 Third, the factual circumstances in the Movant’s claim warrants excusable neglect. As
12 explained above, Movants were consistently told they do not have a valid claim. Movant suffers
13 daily with their feelings after the fire, and Movants were constantly told they do not have a valid
14 claim. Movants also struggle from post-traumatic stress disorder as a result of the fire. Post-
15 traumatic stress disorder symptoms may start within one month of a traumatic event, but
16 sometimes symptoms may not appear until years after the event.¹ These symptoms cause
17 significant problems in social or work situations and in relationships.² They can also interfere
18 with a person’s ability to go about their normal daily tasks.³

21 PTSD symptoms can vary in intensity over time. Someone may have more PTSD
22 symptoms when they are generally stressed, or when they come across reminders of a traumatic
23 event they experienced.⁴ In terms of wildfire victims, many feel stress, anxiety and panic when
24

26 ¹ Post-traumatic stress disorder (PTSD) - Symptoms and causes, Mayo Clinic (July 6, 2018),
27 www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/symptoms-causes/syc-20355967.

28 ² *Ibid.*

³ *Ibid.*

⁴ *Ibid.*

1 they smell even the slightest smoke, because it triggers a traumatic memory of their experience.
2 Some even wake up multiple times at night to make sure there is not a fire nearby. In the present
3 case, Movants were suffering the loss of a community, and being told they do not have a valid
4 claim although they were struggling to pick up the pieces after the fire.

5 Another common symptom of PTSD is avoiding things that remind someone of the event.
6
7 ⁵ For wildfire victims, this can include putting off filing a lawsuit in order to try to move on from
8 the traumatic event. Unfortunately, for these types of wildfire victims, years later, they come to
9 the realization that it is not possible to simply start over after the fire. A lot of wildfire victims
10 have lost their homes, everything they own, their jobs, and their community. With a limited or no
11 income at all, most wildfire victims are unable to rebuild and move on as they were trying to do.
12 Similarly, here, Movant was told she did not have a claim, so she decided to try to move on and
13 do whatever she can. As a result, due to excusable unawareness, the Movant did not timely file a
14 proof of claim for their 2018 damages until after the bar date. See e.g., Comm. for Idaho's High
15 Desert, Inc. v. Yost, 92 F.3d 814, 824 (9th Cir. 1996) ("compelling circumstances" in one's
16 personal life may constitute excusable neglect). After realizing the legitimacy of her claims and
17 how difficult it is to start over, Movants contacted Frantz Law Group, APLC to evaluate their
18 claim. During the normal course of due diligence, Frantz Law Group, APLC inquired about
19 possible damages from the 2018 Camp Fire.
20
21
22

23 It would be unfair for the plaintiff to not be able to file their claim. Although their house
24 did not burn down, that does not mean they did not suffer. Claimant, like all other wildfire
25 survivors, endured great trauma. Importantly, Movant's claim is made in good faith. The
26 aftermath of the fire caused the Movant to struggle mentally, physically, and emotionally. Due to
27

28 ⁵ About Face booklet (va.gov)

1 Movant's misinformation about the law, they did not understand the legitimacy of their claims
2 which resulted in the Movant not filing a claim in time. Had Movant been properly informed that
3 they could still file a claim even though their house didn't fully burn down, or even aware of the
4 bar date, Movants would have timely filed a proof of claim.

5
6 **IV. CONCLUSION**

7 For the foregoing reasons, this Motion should be granted, and the Movants claim should
8 be deemed timely.

9
10 Dated: July 6, 2022

By: /s/ James P. Frantz
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1 **Declaration of Regina Bagdasarian**

2 I, Regina Bagdasarian, declare as follows:

- 3 1. I am an individual over 18 years of age and competent to make this Declaration.
- 4 2. If called upon to testify, I could and would competently testify as to the facts set forth in
- 5 this Declaration. The facts set forth below are true based on my personal knowledge or
- 6 through information obtained my staff.
- 7 3. I am an attorney of the law firm Frantz Law Group, APLC and I make this declaration
- 8 in support of the Motion to Allow/Deem Timely Late Filing of Proof of Claim.
- 9 4. Creditor Lisa Raczynski and Vincent Raczynski are survivors of the Camp Fire that
- 10 occurred in 2018.
- 11 5. Lisa Raczynski and Vincent Raczynski resided at 14690 Colter Way, Magalia, CA
- 12 95954.
- 13 6. Lisa Raczynski and Vincent Raczynski did not file a claim sooner because they were
- 14 misinformed about their standing; they were told they did not have a claim since their
- 15 house wasn't a total burndown.
- 16 7. Lisa Raczynski and Vincent Raczynski was misinformed about the legitimacy of his
- 17 claims.
- 18 8. On July 5, 2022, Cindy Murphy retained FLG.

19 I declare under penalty of perjury that the foregoing is true and correct. Executed on July

20 6, 2022.

21 /s/

22 
Regina Bagdasarian

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CERTIFICATE OF SERVICE

I hereby certify that on July 6, 2022, a copy of the following was filed electronically.
Notice of this filing will be sent by operation of the Court's electronic filing system to all
parties indicated on the electronic filing receipt. Parties may access this filing through the
Court's electronic filing system.

/s/

Regina Bagdasarian

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EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA (SAN FRANCISCO DIVISION)

In re:
PG&E CORPORATION,
- and -
PACIFIC GAS AND ELECTRIC
COMPANY,
Debtors.

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11
(Lead Case)
(Jointly Administered)

Proof of Claim (Fire Claim Related)

Read the instructions before filing this claim form. This form is for tort claimants who have a claim against the Debtors (i.e. PG&E Corporation and Pacific Gas and Electric Company) that arose prior to the Debtors filing for bankruptcy (i.e. prior to January 29, 2019) and that arose from, or relates to, a fire.

Do not use this form for non-fire claims. Non-fire tort claimants should use Form 410.

Do NOT file a fraudulent claim. A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Please type or print in the spaces below. Do NOT use red ink or pencil.

Part 1: Identify the Claim

1. Who is the current creditor?	Lisa Raczynski Name of the current creditor (the person or entity to be paid for this claim)	
2. Has this claim been acquired from someone else?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. From whom? _____	
3. Are you filing this claim on behalf of your family? A family is a group of two or more people related by birth, marriage, domestic partnership, or adoption and residing together. All such people are considered as members of one family.	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes If you checked "Yes", please provide the full name of each family member that you are filing on behalf of: Vincent Raczynski _____ _____ _____ _____	
4. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? Name Lisa Raczynski Attorney Name (if applicable) James P. Frantz Attorney Bar Number (if applicable) 87492 Street Address 402 West Broadway Suite 860 City San Diego State CA Zip Code 92101 Phone Number 530-423-6774 Email Address wildfires@frantzlawgroup.com	Where should payments to the creditor be sent? (if different) Name _____ Attorney Name (if applicable) _____ Attorney Bar Number (if applicable) _____ Street Address _____ City _____ State _____ Zip Code _____ Phone Number _____ Email Address _____
5. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
6. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2:**Give Information About the Claim as of the Date this Claim Form is Filed****7. What fire is the basis of your claim?**

Check all that apply.

- ☒ Camp Fire (2018)
☐ North Bay Fires (2017)
☐ Ghost Ship Fire (2016)
☐ Butte Fire (2015)
☐ Other (please provide date and brief description of fire: _____)

8. What are the loss location(s) where you and/or your family suffered harm? (e.g. home or business address, place of injury, place from which you were evacuated, if different?)

Location(s): 14690 Colter Way, Magalia, CA 95954.

9. How were you and/or your family harmed?

Check all that apply

- ☒ Property Damage (homes, structures, personal property, land, trees, landscaping, and all other property damage)
☒ Owner ☐ Renter ☐ Occupant ☐ Other (Please specify): _____
☒ Personal Injury
☐ Wrongful Death (if checked, please provide the name of the deceased) _____
☐ Business Loss/Interruption
☒ Lost wages and earning capacity
☒ Loss of community and essential services
☐ Agricultural loss
☒ Other (Please specify): Any and all other damages recoverable under California law.

10. What damages are you and/or your family claiming/seeking?

Check all that apply

- ☒ Economic damages (including replacement cost of damaged property, diminution in value, loss of use, lost inventory, lost profits, and other economic damage)
☒ Non-economic damages (including loss of society and support, loss of consortium, pain and suffering, emotional distress, annoyance and discomfort, and other non-economic damage)
☒ Punitive, exemplary, and statutory damages
☒ Attorney's fees and litigation costs
☒ Interest
☒ Any and all other damages recoverable under California law
☐ Other (Please specify): _____

11. How much is the claim?

- ☐ \$ _____ (optional)
☒ Unknown / To be determined at a later date

Part 3: Sign Below

The person completing this proof of claim must sign and date it.
FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both.
18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
☒ I am the creditor's attorney or authorized agent.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 07/05/2022 (mm/dd/yyyy)

Signature

Print the name of the person who is completing and signing this claim:

Name	James P Frantz		
	First name	Middle name	Last name
Title	Attorney		
Company	Frantz Law Group, APLC		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	402 W BROADWAY STE 860		
	Number	Street	
	SAN DIEGO	CA	92101
	City	State	ZIP Code
Contact phone	855-735-5945	Email	WILDFIRES@FRANTZLAWGROUP.COM